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SENATE

{ REPORT
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ARROWROCK DAM HYDROELECTRIC PROJECT

OCTOBER 4, 1999.—Ordered to be printed

Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 1236]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1236) to extend the deadline under the Federal Power Act for commencement of the construction of the Arrowrock Dam Hydroelectric Project in the State of Idaho, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE MEASURE

The purpose of S. 1236 is to authorize the FERC to extend until March 26, 2005, the time period for the commencement of construction for the Arrowrock hydroelectric project, FERC No. 4656.

BACKGROUND AND NEED

Section 13 of the Federal Power Act requires a hydroelectric licensee to commence the construction of its project within two years of the date of the issuance of the license. That deadline can be extended by the FERC one time for as much as two additional years. Unless additional legislation is enacted, if construction has not commenced by the end of the time period the license is terminated by the FERC.

On March 27, 1989, the Commission issued a license for the Arrowrock Dam. Subsequently the Commission issued an order extending the commencement of construction to March 26, 1993. Under the terms of P.L. 102-486, the deadline was extended until March 26, 1999. On May 3, 1999, the Commission issued a notice of the probable termination of the license for failure to commence project construction by the March 26, 1999 deadline. The license

has not yet been terminated. In the absence of this legislation, the license will be terminated.

LEGISLATIVE HISTORY

S. 1236 was introduced on June 17, 1999. A hearing was held by the Subcommittee on Water and Power on July 28, 1999.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on September 22, 1999, by a voice vote with a quorum present, recommends that the Senate pass the bill without amendment.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

S. 1236—A bill to extend the deadline under the Federal Power Act for commencement of the construction of the Arrowrock Dam Hydroelectric Project in the state of Idaho

CBO estimates that enacting S. 1236 would have no net effect on the federal budget. The legislation contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

S. 1236 would extend the deadline for construction of a hydroelectric project currently subject to licensing by the Federal Energy Regulatory Commission (FERC) until March 26, 2005. The proposed extension is for FERC project number 4656. This provision may have a minor impact on FERC's workload. Because FERC recovers 100 percent of its costs through user fees, any change in its administrative costs would be offset by an equal change in the fees that the commission charges. Hence, the bill's provisions would have no net budgetary impact.

Because FERC's administrative costs are limited in annual appropriations, enactment of this bill would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to the bill.

The CBO staff contact for this estimate is Kim Cawley. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out this measure.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the provisions of the bill. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of this measure.

EXECUTIVE COMMUNICATIONS

The pertinent communications received by the Committee from the Federal Energy Regulatory Commission setting forth Executive agency views relating to this measure are set forth below:

STATEMENT OF JAMES J. HOECKER, CHAIRMAN, FEDERAL ENERGY REGULATORY COMMISSION

Mr. Chairman and Members of the subcommittee, I appreciate the opportunity to comment on S. 1236, an act to extend the construction deadlines applicable to a hydroelectric project licensed by the Federal Energy Regulatory Commission.

Section 13 of the Federal Power Act requires that construction of a licensed project be commenced within two years of issuance of the license. Section 13 authorizes the Commission to extend this deadline once, for up to an additional two years. If project construction has not commenced by this deadline, the Commission is required to terminate the license.

On March 27, 1989, the Commission issued a license to five Idaho irrigation districts to construct and operate the 60-megawatt Arrowrock Dam Project No. 4656, to be located at the U.S. Bureau of Reclamation's Arrowrock Dam and Reservoir on the South Fork of the Boise River, in Elmore and Ada Counties, Idaho. The deadline for the commencement of project construction, originally March 26, 1991, was extended by the Commission to March 26, 1993. Under the terms of P.L. 102-486, the deadline was further extended until March 26, 1999. On May 3, 1999, the Commission issued notice of the probable termination of the Project No. 4656 license for failure to commence project construction by the March 26, 1999 deadline. The license has not yet been terminated.

Construction of the project entails installation of two 180-foot-long penstocks; excavation of a 90-by-50-foot tailrace; and construction of a powerhouse, a 15.2-mile-long, 138-kV transmission line, and related project facilities.

S. 1236 would authorize the Commission, upon the request of the licensee and in accordance with the good faith, due diligence, and public interest requirements of section 13, to extend the deadline for commencement of construction until March 26, 2005.

As a general matter, enactment of bills authorizing or requiring construction extensions for individual projects delays utilization in the public interest of an important energy resource and therefore is inappropriate. In cases where project-specific extensions are authorized by the Congress, however, they should be of relatively short duration and respond only to the practical but unforeseeable

needs of the licensee. I can think of no case where granting a licensee more than ten years from the issuance date of the license to commence construction meets those criteria, absent a showing of extraordinary circumstances. I believe ten years is a more than reasonable period for a licensee to determine whether a project is economically viable and to sign a power purchase agreement. If a licensee cannot meet such a deadline, I believe as a general matter that the license should be terminated pursuant to Section 13, so that the site is once again available for whatever uses current circumstances may warrant, based on up-to-date information on economic and environmental consideration.

The proposed legislation would give the license holder of Project No. 4656 fully 16 years to commence construction—12 years more than the maximum allowed under Section 13. During that intervening time, substantial changes in economic factors such as the cost of project power and relevant public interest considerations such as the project's environmental impacts could affect the viability of the project. Because S. 1236 would extend the construction commencement date beyond ten years from the issuance of the Project No. 4656 license, I do not support its enactment.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by S. 1236 as ordered reported.

